

Service Date: August 13, 1990

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Application)	UTILITY DIVISION
of US West Communications for)	
Forbearance of Rate Regulation)	DOCKET NO. 90.8.45
Re: Deaconess Medical Center of)	
Billings, Inc.)	ORDER NO. 5491
_____)	

FINAL ORDER

FINDINGS OF FACT

1. On August 2, 1990 US West Communications (USWC) filed an application with the Montana Public Service Commission (Commission or PSC) requesting forbearance of rate regulation for intraLATA Message Telecommunications Service, Outward Wide Area Telecommunications Service (OutWATS) and WATS 800 Service to Deaconess Medical Center of Billings, Inc. (DMCB), Billings, Montana, including accounts for Deaconess Medical Center, Deaconess Development Services, Deaconess Medical Center Foundation, and Deaconess Medical Center Corporate Planning. USWC's application was made pursuant to Section 69-3-808, MCA.

2. On August 8, 1990, at a duly noticed work session, the Commission DENIED USWC's forbearance application based solely upon the contents of USWC's application. The following provides the Commission's reasons for denying USWC's application.

3. Section 69-3-808(3), MCA, states the Commission shall deny a forbearance application only if it is incomplete or similar service to that listed in the application is not

"being offered" by parties other than the applicant. This statute also requires that the application describe "the party or parties offering similar service"; and provides that the Commission may require information "reasonably related to the determination of the existence of an alternative offer" (Section 69-3-808(2), MCA). ARM 38.5.2715(1) requires that a forbearance application include:

- (e) the party or parties offering similar alternative service to the customer; |and-
- (f) a description of the alternative service offered and the market area.

Section 38.5.2715 (2), ARM, states that the Commission shall decide a forbearance application "...based on the existence of a viable competitive offer. The telecommunications service provider seeking forbearance has the burden of establishing that a viable competitive offer exists."

4. Attached to and referenced in USWC's application is a notarized letter from DMCB, dated July 16, 1990, requesting a proposal for the above cited services. The letter states that DMCB "will be reviewing competitive proposals from AT&T, MCI, Sprint, and U S West Communications |for intra-lata long distance calling and 800 service in Montana-" (emphasis added). USWC's application itself states: "The customer has requested bids from the following long distance carriers: MCI, AT&T |and- Sprint" (emphasis added).

5. USWC's application is incomplete and fails to satisfy the statutory standard for approval of forbearance applica tions. The application merely states that the customer has requested bids from other companies. There is no proof whatsoever that a bid has actually been submitted to DMCB or that a competitive offer actually "exists." To presume that such an offer will be made in the future would be purely speculative and beyond the Commission's authority under Section 69-3-808. For the same reasons, the application is incomplete pursuant to Sections 69-3-808(2) and ARM 38.5.2715(1)(e) and (f).

CONCLUSIONS OF LAW

1. USWC provides regulated telecommunications services within the state of Montana and is a public utility under the regulatory jurisdiction of the Montana Public Service Commission, Sections 69-3-101 and 69-3-803(3), MCA.
2. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA.
3. USWC's application fails to include all of the information required by Section 69-3-808, MCA and ARM 38.5.2715.
4. The application fails to prove that similar telecommunications service is being offered to the customer by a party other than the Applicant. Section 69-3-808(3), MCA.

ORDER

USWC is DENIED FORBEARANCE of rate regulation with respect to the provision of intraLATA Message Telecommunications Service, Outward Wide Area Telecommunications Service (OutWATS) and WATS 800 Service to Deaconess Medical Center of Billings, Inc. (DMCB), Billings, Montana, including accounts for Deaconess Medical Center, Deaconess Development Services, Deaconess Medical Center Foundation, and Deaconess Medical Center Corporate Planning.

Done and Dated this 8th day of August, 1990 by a 5-0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

HOWARD L. ELLIS, Chairman

DANNY OBERG, Vice Chairman

WALLACE W. "WALLY" MERCER, Commissioner

JOHN B. DRISCOLL, Commissioner

REX MANUEL, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.